

MINUTES
UTAH
PHYSICIAN'S LICENSING BOARD
MEETING

June 13, 2007

Room 474 – 4th Floor –8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 8:45 a.m.

ADJOURNED: 12:50 p.m.

Bureau Manager:
Secretary:
Division Director:

Diana Baker
Shirlene Kimball
F. David Stanley

Conducting:

George Pingree, MD Chair

Board Members Present:

George Pingree, MD
Lori Buhler, public member
James Fowler, MD
Curtis Canning, MD
Michael Giovanniello, MD
Stephen Lamb, MD
Marc Babitz, MD
John Bennion, Ph.D., public member
Mason Stout, MD

Board Members Excused:

Richard Sperry, MD
Sharon Weinstein, MD

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

May 9, 2007 Minutes:

Agenda Review by Diana Baker:

FULL BOARD INTERVIEWS:

Jeffrey Gardner, MD
New Applicant Interview:

DECISIONS AND RECOMMENDATIONS

The minutes were approved as written. All Board members in favor.

Ms. Baker gave a brief overview of the probationers and applicants meeting with the Board.

Dr. Gardner was interviewed by Dr. Lamb. Dr. Gardner explained the circumstances that brought him before the Board. He indicated the yes answer on his application was in regards to a malpractice suit that was later dropped. Dr. Gardner also indicated he was

suspended during his residency program for online communication with a 17 year old during a rotation at the hospital. He indicated the communication was of a sexual nature. Dr. Gardner stated he was immediately terminated from the residency program and he then requested a full review. He stated his e-mail account was reviewed; he completed two psychiatric evaluations and submitted to a polygraph examination. Dr. Gardener stated after the review he was reinstated and finished the residency without further incidence. He indicated this was an isolated incident and he acknowledged his lapse in judgment. He stated he had no personal contact with those individuals he communicated with on the internet and indicated he no longer participates in chat rooms. He stated he has continued with counseling. Dr. Lamb indicated he does not feel comfortable giving a license without restrictions. Dr. Babitz stated that no one had been harmed and Dr. Gardner does not appear to be at risk of harming another person. Dr. Babitz stated that if the Board places Dr. Gardner on probation, the punishment would outweigh the offense. Dr. Canning stated he would support Dr. Babitz and indicated Dr. Gardner has been in therapy and is aware of the consequences if this happens again. Dr. Canning stated he is in favor of giving the license. Dr. Lamb made a Motion to issue an unrestricted license. Dr. Stout seconded the Motion. All Board members in favor.

Darrell Anderson, MD

Dr. Anderson and his attorney, Peter Stirba, met with the Board. Dr. Anderson was 20 minutes late to the interview. Dr. Anderson stated he has been moving his office and placed some of his documents in storage. He stated he was unable to find the information requested at the last Board meeting. Dr. Anderson indicated he tried to recreate those documents and will have them e-mailed to Ms. Baker. He stated some of the triplicate prescriptions he submitted to the Board were returned to him, and he resubmitted those prescriptions. He stated he will submit a new practice plan indicating the arrangement with Michael Stevens who has agreed to be his co-manager and supervisor. Dr. Anderson stated he spoke with Dr. Javellana and asked her to submit paperwork for the last period. He stated Dr. Stevens

will fill out the paperwork from now on. Board members requested Dr. Stevens submit an acceptance to be the supervisor and co-manager. Dr. Canning again expressed great concerns regarding the unaccounted prescriptions; the multiple examples of sloppy behavior and multiple other behaviors of concern. Dr. Anderson remains out of compliance and will need to meet with the Board again next month.

James Jones, MD
New Applicant Interview:

Dr. Bennion conducted the interview. Dr. Jones was requested to meet with the Board to explain why he has not been practicing for the last year and half. Dr. Jones explained that he moved to Utah with the intent of practicing at the VA Hospital where he would not need a Utah license. However, he has not been hired by the VA and would like to open a private practice in Thoracic Surgery and therefore, needs the Utah license. He stated he attends national meetings and just returned from the annual meeting of the Thoracic Surgery Association. He stated he reviews journals and completes continuing education. Dr. Jones stated he is retired military, practiced in North Carolina for two years and in Pennsylvania for six years. No actions have been taken against his license. Dr. Bennion made a Motion to approve Dr. Jones for licensure. Dr. Babitz seconded the Motion. All Board members in favor.

Jeffrey Clark, MD
Interview:

Dr. Clark requested a meeting with the Board to discuss his residency options. However, he called and indicated that the issue had been resolved and he would not need to meet with the Board at this time.

Terrell Sellers, MD
Interview:

Ms. Buhler conducted the interview. Dr. Sellers has missed calling CVI numerous times. Dr. Sellers indicated CVI placed his account on hold because of a check that did not clear. He indicated he is trying to take care of this issue. Dr. Sellers stated he can't provide a sample for testing while his account is on hold, so he did not call. Dr. Sellers indicated he is not currently working in the medical field and stated he does not have a driving desire to return to practice at this time. He stated he is concentrating on his recovery. Dr. Sellers indicated he would like to become licensed as a substance abuse counselor. He will meet with the Board again in September.

Michael Goates, MD
Interview:

Dr. Fowler conducted the interview. Dr. Goates submitted reports from his supervisors. The Division has received Dr. Brunson's report. Dr. Goates had a positive urine screen for alcohol on May 25, 2007 and Board members questioned how this happened. Dr. Goates indicated he was not sure. He indicated on that day he had some Kool-aid and some kiwi fruit that was not quite ripe, but stated he did not have any exposure to alcohol. Dr. Babitz stated he is not sure the Kool-aid or kiwi fruit would show positive for alcohol. Dr. Goates stated he had taken no medications or mouth wash with alcohol as an ingredient. Dr. Goates stated he is attending PIR meetings at the Gathering Place, attending group therapy and sees Dr. Brunson every week. He stated he is working the program and feels he is doing well. Dr. Goates indicated he has been on urine screens since 2001 and not one has been positive for opiates, his drug of choice, or for any other drugs. The only positives have been for alcohol and he requested he not be considered out of compliance. Dr. Giovanniello stated if an EtG test is positive above the threshold of 1500, he is out of compliance because he has two Orders that specifically state no alcohol. Board members asked Dr. Goates when he last had any alcohol. Dr. Goates stated maybe last summer. Board members reminded Dr. Goates he had positive urines for alcohol in December. Dr. Goates stated he has researched the literature which indicates the metabolite of alcohol is very sensitive. He stated he feels the Division may be using the metabolite prematurely. Ms. Baker indicated it is true that the literature indicates the metabolite is very sensitive, however, having EtG in the system shows there is alcohol in the system and the level of 1500 was set to rule out incidental use of alcohol, such as hand washes and mouth washes. Ms. Baker also indicated Dr. Goates has admitted at a Board meeting to having a glass of wine with dinner. Dr. Fowler indicated to Dr. Goates he is the only one who knows whether or not he took a drink of alcohol. Dr. Babitz made a Motion to consider Dr. Goates in compliance, but the Board is expressing concern with the positive and if it happens again, he will be out of compliance and further action may be taken. Dr. Babitz also requested Ms. Baker

invite an expert to meet with the Board to discuss the metabolite issue. The Motion was seconded. Discussion: Board members indicated they are comfortable with the motion because Dr. Goates' is on probation until 2010. Dr. Canning abstained. All others in favor.

Alan Heap, MD
Interview:

Dr. Babitz and Ms. Baker interviewed Dr. Heap in a separate room. Dr. Heap was accompanied by Dr. Jay Spector, his supervising physician. Dr. Heap was interviewed by Dr. Babitz, who went through the list of non-compliance violations that have accumulated against Dr. Heap since his first visit with the Board in February. Dr. Heap explained that he was not able to attend the meeting in May because he had just returned from vacation and did not have time to get ready for the Board meeting. He stated that he had been trying to get all of the documents into the Division that were delinquent. He had records review from Dr. Spector but did not understand that Dr. Spector was to be doing performance evaluations of Dr. Heap's practice as well. Instruction were given to both Dr. Heap and Dr. Spector regarding the information that the Board would be expecting from performance evaluations, weekly co-management meetings between them, and records reviews for adequate prescribing practices of controlled substances.

Dr. Heap explained that he is being removed from insurance panels and was afraid that he would not be in business soon if he kept being dropped. He explained that he was very needed in Tooele and that if he was put out of business because of this Order, then psychiatric problems would increase in that community. Dr. Babitz explained that a letter could be sent from the Division that has been provided to insurance panels in the past. Ms. Baker will send these to Dr. Heap so that he can contact the panels for reconsideration. Dr. Babitz also explained that the Division did not cause this to happen to him, and that Dr. Heap needed to keep in mind that his violations of the law lead to this probationary status.

Dr. Heap also provided information that he had contacted the Oregon Health Sciences for his

prescribing course that should have been completed by July 11, 2007. It does not appear possible for him to get into the course at this time, but he is working towards making the arrangement for the next course available.

Dr. Babitz went through the copies of prescriptions that Dr. Heap had submitted to the Division. He had submitted original prescriptions and stated that he had just gone through medical records to determine what he had written since January. He stated that he is caught up now and has been saving the triplicate copy for his probationary file now. It was noted that many of the names found on the database did not have accompanying prescriptions and Dr. Heap was told that these prescriptions would be watched very carefully, and that he must insure that he is writing all controlled substance prescriptions on the sequentially numbered pads. Dr. Heap is still **not in compliance** with his Order.

Judy Engen, MD
Interview:

Dr. Engen did not appear for her interview. She is still recovering from an accident and will be re-scheduled.

Glade Curtis, MD
Interview:

Dr. Curtis has submitted all reports and appears to be in compliance with his Order. Dr. Curtis indicated he is attending support group meetings and is doing well. Dr. Curtis requested early termination of probation. A letter from the therapist, Dr. Crookston, supports the early termination of probation. Ms. Baker indicated she does not have any hesitation terminating the probation early. Dr. Lamb made a Motion to shorten the probation by two years. This would make him eligible for termination of probation in October 2007. He will be invited to meet with the Board in September, and if he is doing well and remains in compliance, his probation will be terminated at that time. Dr. Canning seconded the Motion. All Board members in favor.

NEW BUSINESS:

Dr. Lamb – Report from the FSMB Annual meeting:

Dr. Lamb indicated he spent a lot of time at the FSMB meeting trying to find out how our state fits into what other states are doing. He also indicated he came away with more questions that he would like to present to the Board for discussion. Dr. Lamb stated

our Board does not represent physicians like other Boards and is concerned there is no system set up to help physicians before they get into trouble and have action taken against a license. The Board is not as involved with the investigation process and other Boards are involved in the actual investigation. Dr. Lamb expressed concern that the main function of the Board is compliance, rather than being proactive. Ms. Baker indicated the Division is an umbrella agency. Independent Boards use application fees to run the Board whereas our fees go into toward the functioning of the Division and reserves are sent back to the State's general fund. Dr. Babitz questioned whether or not the Board could submit a proposal to become more proactive in the investigation process and establish a subcommittee made up of Board members to meet with investigators, and to become more involved in the investigation. Ms. Baker indicated that those involved in the subcommittee could not sit on any hearing. It was also suggested that the Diversion program accept behaviors other than substance abuse, such as those physicians with disruptive behavior issues, who are first time offenders and have caused no harm. Ms. Baker stated she has discussed this with Dr. Walton, medical director of the Division program, and he has not been willing to accept those cases in the past.

Ms. Baker did indicate that she does contact individual Board members when making decisions regarding some investigations. By using a single Board member for advice, the remaining Board members can be used in hearings regarding the case if a stipulated agreement cannot be accomplished. This does allow some Board participation and is based on the recommendations that have come from the Board in past discussions related to this topic.

Dr. Canning – Letter of Resignation:

Dr. Canning submitted a letter of resignation. Dr. Canning indicated he will attend the next Board meeting, but will need to discontinue the Board within the next three months. Dr. Canning stated he will contact Dr. Paula Gibbs and report to the Board before he leaves. Board members would like to have Dr. Canning remain on the Board and would miss his expertise.

Dr. Lamb indicated the Board may want to consider having a chair and vice chair. It would also be nice to have discussion items such as "what is the role of the Board?" and "how are we doing?" placed on the agenda.

Applications approved by the Division:

Susan Siegfried, MD
Beverly Chang, MD
Samin Gopinath, MD
Bret Kean, MD
Rohn Rigby, MD
Matthew Sorrell, MD
Charles Lind, MD
David Adams, MD
Jai Grewal, MD
William Macleod, MD
Marcella Woiczik, MD
Matthew Grinsell, MD
Jane Porretta, MD
Kimberly Pettit, MD
Wallace Salter, MD
John Wohlwend, MD
Darren Mikesell, MD
Troy Hutchins, MD
Peter Liu, MD
Maryam Rezvani, MD
Robert Paine, MD
Robert Poliner, MD
Gautham Mallampati, MD
Eugene Pretorius, MD
Clay Cockerell, MD
Manpreet Bains, MD
Monica Wonnacott, MD
William Zinn, MD

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

July 11, 2007

George Pingree, MD Chair Physicians Licensing Board

July 11, 2007

Diana Baker, Bureau Manager, Division of Occupational & Professional Licensing